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13 Insurance Corporation, as Receiver
14 for Community Bank of Nevada

15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA

17 JEFFREY B. GUINN, individually
18 and as Trustee of the DEL MAR
19 TRUST, et al.

20 Plaintiff/Counterdefendant,

21 vs.

22 FEDERAL DEPOSIT INSURANCE
23 CORPORATION, AS RECEIVER
24 FOR COMMUNITY BANK OF
25 NEVADA; DO INDIVIDUALS I-XX,

26 Defendant/Counterclaimant.

27) Case No. 2:09-cv-01809-PMP-CWH
28)
29)
30)
31) PRELIMINARY INJUNCTION

32
33 Defendant/Counterclaimant the Federal Deposit Insurance
34 Corporation's, as Receiver for Community Bank of Nevada ("FDIC-R"),
35 Motion for Preliminary Injunction was heard on October 28, 2013, at 2 p.m.
36 Plaintiffs/Counterdefendants Kent and Marry Barry (the "Barrys") received
37 notice of the motion and hearing and attended. The Court, having
38 considered the FDIC-R's motion (#265) and the Declaration of Robert
McCoy and exhibits in support of that motion, finds as follows:

1 1. The FDIC-R has shown a likelihood of success on the
2 merits of its motion for a writ of execution against Pacific Sunset
3 Development, LLC ("Pacific Sunset"). The Court will address that motion
4 after it is fully briefed.

5 2. The FDIC-R has shown a possibility of harm if a
6 preliminary injunction is not ordered because there is the possibility of the
7 Barrys spending or moving the funds held in the Pacific Sunset bank
8 account before the Court can rule on the FDIC-R's motion for a writ of
9 execution.

10 3. The balance of equities favors ordering a preliminary
11 injunction against the Barrys because denial of a preliminary injunction
12 would allow the Barrys unfettered access to any funds in the Pacific Sunset
13 bank account, whether held at Wells Fargo or any other financial
14 institution, which could hinder the FDIC-R's ability to collect on its
15 outstanding judgments.

16 4. Entering a preliminary injunction against the Barrys is in
17 the public interest because the FDIC-R is an agency of the federal
18 government and is tasked with the objective of collecting on the assets of a
19 failed bank.

20 5. The FDIC-R is not required to post a bond for a
21 preliminary injunction pursuant to 12 U.S.C. § 1822(a).

22 **IT IS HEREBY ORDERED THAT:**

23 1. The FDIC-R's Motion for Preliminary Injunction is
24 granted in part.

25 2. Kent and Mary Barry, along with their officers, agents,
26 servants, employees, and all persons in active concert or participation with
27 one or both of them, are enjoined from transferring or removing any funds
28 from any bank account held in the name of Pacific Sunset Development,

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1 LLC at Wells Fargo or any other financial institution, except as follows for
2 reasonable and necessary living expenses:

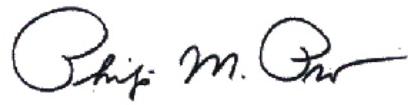
- 3 a. One rent payment per month in the amount of
4 \$4,500;
- 5 b. One payment per month per vehicle in the total
6 amount of \$1,308 and other attendant
7 transportation costs;
- 8 c. Utilities;
- 9 d. Insurance;
- 10 e. Food and groceries;
- 11 f. Necessary medical expenses; and
- 12 g. Education expenses.

13 3. In the event that any allowable expense(s) under this
14 order (except the mortgage and car payment) will exceed \$1,000.00 total
15 per month in any one of the categories enumerated above, the Barrys must
16 give notice of such expenditure(s) that would cause the expenses in that
17 category to exceed \$1,000 to the FDIC-R.

18 4. Kent and Mary Barry, along with their officers, agents,
19 servants, employees, and all persons in active concert or participation with
20 one or both of them, are enjoined from transferring or disposing of any
21 funds from any bank account held in the name of Pacific Sunset
22 Development, LLC at Wells Fargo or any other financial institution.

23 5. This Preliminary Injunction shall remain in effect until
24 further order of this Court.

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2 6. The FDIC-R does not need to post any bond for this
3 Preliminary Injunction to take effect.
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UNITED STATES DISTRICT JUDGE

DATED: November 13, 2013

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